

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Kenneth H. Falchuk	Date: October 6, 2008
Serial No.: 09/730,299	Group Art Unit: 3626
Filed: 12/05/2000	Examiner: Pass, Natalie
Title: Medical Consultation Management System	Confirmation No.: 7848

Commissioner for Patents  
Alexandria, VA 22313-1450

**RESPONSE UNDER 37 CFR 1.116**

Dear Sir:

In response to the Final Office Action of 7/22/2008, Applicants submit the following:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 5 of this paper.

DO NOT ENTER: /NP/

10/08/2008

## **Amendment to the Claims:**

### **Listing of the Claims:**

1. (currently amended) A method of providing continuing medical education credit to a first physician for a consultation between the first physician and a second physician, the first and second physicians being coupled to an intermediary via a telecommunications system, the method comprising the steps—performed in an intermediary which is coupled by a telecommunications system to both the first and second physicians—of:

receiving by the intermediary a request for a consultation from the first physician via the telecommunications system;

receiving a selection by a staff physician of the second physician, the second physician having an expertise in a specialty in which the consultation is requested by the first physician;

sending by the intermediary the request to the selected second physician via the telecommunications system;

arranging and conducting the consultation via the telecommunications system under supervision of a medical information specialist in the intermediary who is neither the first nor the second physician;

receiving by the intermediary a comment made with regard to the consultation via the telecommunications system from the selected second physician in the intermediary;  
and

providing the comment from the selected second physician to the first physician via the telecommunications system;

notifying a continuing medical education accreditation module in the intermediary that the consultation has been successfully concluded;

recording information concerning the consultation in a continuing medical education database, the information being associated with the first physician; and

creating an accreditation report for the first physician from the information in the continuing medical education database, the accreditation report comprising a certification of the continuing medical education credit earned by the first physician from participation in the consultation.

~~to the medical information specialist, the intermediary being empowered to certify that the first physician is entitled to continuing medical education credit and the medical information specialist evaluating the consultation represented by the comment to determine whether the first physician is entitled to continuing medical education credit on the basis of the consultation represented by the comment and if the first physician is entitled, certifying that the first physician is entitled to the continuing medical education credit in a database accessible from the intermediary and otherwise not so certifying.~~

2. (currently amended) The method of providing continuing medical education credit set forth in claim 1 wherein the method further comprises the steps ~~performed in the intermediary under supervision of the medical information specialist of:~~

retrieving by the intermediary instructional material relevant to the comment and the consultation selected by the staff physician from ~~the an~~ information data base; and providing the instructional material to the first physician via the telecommunications system.

3. (currently amended) The method of providing continuing medical education credit set forth in claim 2 wherein the method further comprises the steps ~~performed in the intermediary under supervision of the medical information specialist of:~~

providing by the intermediary an examination based on at least the instructional material via the telecommunications system;

receiving by the intermediary answers for the examination from the first physician via the telecommunications system; and

grading by the intermediary the received answers, the first physician being entitled to the medical education credit if the first physician passes the examination.

4. (currently amended) The method of providing continuing medical education credit set forth in claim 1 wherein the method further comprises the steps ~~performed in the intermediary under supervision of the medical information specialist of:~~

providing by the intermediary an examination based on at least the comment to the first physician via the telecommunications system;

receiving by the intermediary answers for the examination from the first physician via the telecommunications system; and

grading by the intermediary the received answers, the first physician being entitled to the medical education credit if the first physician passes the examination.

## REMARKS/ARGUMENTS

This Amendment is in response to the Final Office Action dated 7/22/2008. Claims 1-4 are pending. Claims 1-4 are rejected. Claims 1-4 have been amended. No claims have been added or cancelled. Accordingly, claims 1-4 remain pending in the present application.

### Rejection under 35 USC 112

Claims 1-4 are rejected under 35 USC 112, first paragraph as set forth in the previous Office Action (paper number 20071101, section 5, pages 2-4). In the previous office action, the Examiner stated that the added material which is not supported by the original disclosure is as follows: “certifying that the first physician is entitled to the continuing medical education credit in a database accessible from the intermediary” as disclosed in claim 1; and “performed in the intermediary under supervision of the medical information specialist” as disclosed in claims 2-4.

Applicant has amended claims 1-4 to remove the added material. The Examiner’s rejection is thus moot.

### Amendment of the claims

Claim 1 has been amended to the following, with reference to support in the specification as set forth in U.S. Patent No. 6,256,613:

1. A method of providing continuing medical education credit to a first physician for a consultation between the first physician and a second physician, the first and second physicians being coupled to an intermediary via a telecommunications system, the method comprising the steps of:

receiving by the intermediary a request for a consultation from the first physician via the telecommunications system; (col. 3, lines 27-31)

receiving a selection by a staff physician of the second physician, the second physician having an expertise in a specialty in which the consultation is requested by the first physician; (col. 3, lines 39-43)

sending by the intermediary the request to the selected second physician via the telecommunications system; (col. 3, lines 29-30)

receiving by the intermediary a comment made with regard to the consultation via the telecommunications system from the selected second physician; (col. 4, lines 62-67)

providing the comment from the selected second physician to the first physician via the telecommunications system; (col. 5, lines 11-14)

notifying a continuing medical education accreditation module in the intermediary that the consultation has been successfully concluded; (col. 5, lines 45-47)

recording information concerning the consultation in a continuing medical education database, the information being associated with the first physician; and

creating an accreditation report for the first physician from the information in the continuing medical education database, the accreditation report comprising a certification of the continuing medical education credit earned by the first physician from participation in the consultation. (col. 2, lines 47-51; col. 3, lines 21-26; col. 5, lines 48-54)

Support in the specification for the amendment of claim 2 can be found at col. 3, lines 47-63.

Support in the specification for the amendments of claims 3 and 4 can be found at col. 5, lines 54-67.

Therefore, no new matter has been added in the amendments of claims 1-4.

Rejection of claims 1-2 under 35 USC 103

Claims 1-2 are rejected under 35 USC 103(a) as being unpatentable over the Fontelo article (hereinafter “Fontelo”). Applicant respectfully disagrees as to the claims as amended.

*Claim 1*

Independent claim 1 has been amended to clarify that the continuing medical education (CME) credit is provided to the first physician in the context of a consultation through an intermediary and with the assistance of a staff physician. More specifically, the consultation context includes: receiving by the intermediary a request for a consultation from the first physician via the telecommunications system; receiving a selection by a staff physician of the second physician, the second physician having an expertise in a specialty in which the consultation is requested by the first physician; sending by the intermediary the request to the selected second physician via the telecommunications system; receiving by the intermediary a comment made with regard to the consultation via the telecommunications system from the selected second physician; and providing the comment from the selected second physician to the first physician via the telecommunications system. It is in this context that a continuing medical education accreditation module in the intermediary is notified that the consultation has been successfully concluded. Information concerning the consultation is then recorded in a continuing medical education database, the information being associated with the first physician. An accreditation report is then created for the first physician from the information in the continuing medical education database. The accreditation report comprising a certification of the continuing medical education credit

earned by the first physician from participation in the consultation.

In contrast, Fontelo fails to disclose providing CME credits to a physician in the consultation context as recited in amended claim 1. Fontelo discloses providing CME to physicians in remote sites over Internet. (p. 141, col. 2, par. 4) The web site may also be used as a forum for exchanging diagnostic opinions on interesting or difficult, nonemergency cases from other pathologists or diagnosticians worldwide. (p. 141, col. 2, par. 4 to p. 142, col. 1, par. 1) Although Fontelo discloses a consultation over the web site forum, Fontelo fails to disclose the assistance of a staff physician, who selects a specialist (second physician) having an expertise in a specialty in which the consultation is requested by the physician requesting the consultation (first physician), wherein the intermediary then sends the request to this selected (second) physician.

Further, Fontelo fails to specifically disclose a continuing medical education accreditation module in the intermediary that is notified that the consultation has been successfully concluded. Fontelo further fails to specifically disclose that information concerning the consultation is recorded in a continuing medical education database, the information being associated with the requesting (first) physician. Fontelo further fails to specifically disclose that an accreditation report is created for the requesting (first) physician from the information in the continuing medical education database, the accreditation report comprising a certification of the continuing medical education credit earned by the requesting (first) physician from participation in the consultation. Fontelo is simply silent on these features recited in amended claim 1.

For these reasons, Fontelo fails to teach or suggest the combination of features in providing CME credit to a physician for participation in a consultation invention as recited in amended independent claim 1. Claim 1 is thus allowable over Fontelo.

#### *Claim 2*

Dependent claim 2 has been amended to clarify that the intermediary retrieves instructional material relevant to the comment and the consultation selected by the staff physician from an information database, and providing the instructional material to the first physician via the telecommunications system. As with claim 1, Fontelo fails to disclose the assistance of a staff physician, who selects the instructional material relevant to the comment and the consultation from an information database.

Thus, Fontelo fails to teach or suggest the combination of features as recited in amended claim 2. Applicant submits that claim 2 is patentable over Fontelo independently of claim 1. Applicant submits that claim 2 is also allowable because it depends upon allowable base claim 1.

Rejection of claims 3-4 under 35 USC 103

Claims 3-4 are rejected under 35 USC 103 as being unpatentable over Fontelo and the article by Galewitz (hereinafter "Galewitz"). Applicant respectfully disagrees as to the claims as amended.

Claims 3-4 depend upon amended independent claim 1 and are read in combination with claim 1. Claim 1 is allowable over Fontelo as set forth above. For the sake of brevity, these arguments are not repeated here. The secondary reference, Galewitz, stands and falls with its primary reference, Fontelo. Thus, Applicant submits that claims 3-4 are allowable over Fontelo and Galewitz for the same reasons as base claim 1.

Response to Arguments Section

The Examiner's comments in the Response to Arguments section are moot in view of the new amendments of claims 1-4.

Conclusion

Accordingly, claims 1-4 are patentable over these references. Applicant respectfully requests reconsideration and passage to issue of claims 1-4 as now presented.

Applicants' attorney believes this application in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Please charge any additional fees required for the amendment or refund any overpayments to deposit account number 501315.

Respectfully submitted,

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